2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008

(Amendments to be moved on behalf of the Government in place of Senate amendment (1))

(1) Clause 2, page 2 (table item 1, column 1), omit “3”, substitute “4”.

[commencement]

(2) Clause 2, page 2 (table item 3), omit the table item, substitute:

| 3. Schedule 2, | The day on which this Act receives the |
| Part 1 | Royal Assent. |
| 3A. Schedule 2, | At the same time as the provision(s) covered |
| Part 2 | by table item 2. |
| 3B. Schedule 2, | The day on which this Act receives the |
| Part 3 | Royal Assent. |
| 3C. Schedule 3 | At the same time as the provision(s) covered |
| | by table item 2. |

[commencement]

(3) Clause 2, page 2 (table item 4), omit the table item, substitute:

| Parts 1 and 2 | 1 July 2008 |
| 4A. Schedule 4, | The day on which this Act receives the |
| Part 3 | Royal Assent. |

[commencement]

(4) Page 2 (after line 11), after clause 3, insert:
4 Entitlements from 1 July 2008

(1) If:
   (a) a person would have been entitled to one or more payments (the *lost payments*) under an Act that is amended by Schedule 1, 2, 3 or 5 to this Act if the relevant Schedule had commenced on 1 July 2008; and
   (b) because the Schedule did not commence until after 1 July 2008, the person is not entitled to the payment or payments; and
   (c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;
   the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.

(2) If:
   (a) a person would have been entitled to one or more payments (the *lost payments*) under the *Military Superannuation and Benefits Act 1991* if the first amendment of the Trust Deed under that Act that is made after the commencement of this section had commenced on 1 July 2008; and
   (b) because that amendment did not commence until after 1 July 2008, the person is not entitled to the payment or payments; and
   (c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;
   the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.

(3) If:
   (a) a person would have been entitled to one or more payments (the *lost payments*) under the *Superannuation Act 1990* if the first amendment of the Trust Deed under that Act that is made after the commencement of this section had commenced on 1 July 2008; and
   (b) because that amendment did not commence until after 1 July 2008, the person is not entitled to the payment or payments; and
   (c) the person makes an application to the Finance Minister for one or more payments (the *replacement payments*) to compensate the person for the lost payments;
   the Finance Minister must make a determination, in accordance with subsection (4), to fully compensate the person.

(4) A determination by the Finance Minister under this subsection must:
   (a) be in writing; and
   (b) set out:
      (i) the amount and timing of the replacement payments; or
      (ii) the method of determining the amount and timing of the replacement payments.

(5) An application must be in writing in the form approved by the Finance Minister.

(6) To avoid doubt, a determination of the Finance Minister that a person is entitled to one or more replacement payments does not affect the entitlements of any other person under an Act amended by Schedule 1, 2, 3 or 5 to this Act, the *Military Superannuation and Benefits Act 1991* or the *Superannuation Act 1990*.

(7) Replacement payments are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.
(8) A determination made under this section is not a legislative instrument.

(9) In this section:

**Finance Minister** means the Minister who administers the *Financial Management and Accountability Act 1997.*

[commencement]